

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON**

**STATE OF WASHINGTON,**

**NO. 2:14-CV-00137-TOR**

Plaintiff,

**CONSENT DECREE**

v.

**US ONLINE.COM, INC., d/b/a  
SUDDENVALUES.COM, a**  
Washington for-profit corporation  
and **STEVEN W. KLOCK**, Chief  
Executive Officer,

Defendants.

**I. DECREE SUMMARY**

1.1 Decree Creditor: State of Washington

1.2 Decree Debtors: Steven W. Klock and U.S. Online.com,  
Inc., d/b/a Suddenvalues.com

1.3 Principal Decree Amount:

a. Civil Penalty: \$100,000 with \$100,000 suspended  
(conditioned upon compliance with the terms of the Decree)

b. Restitution: \$12,500

1.4 Costs and Attorneys' Fees: \$12,500

1.5 Total Decree Amount: \$25,000

1.6 Attorney for Decree Creditor: John A. Nelson, Assistant  
Attorney General

1.7 Attorney for Defendants: Brian Sheldon, Phillabaum,  
Ledlin, Matthews & Sheldon, PLLC

Plaintiff, State of Washington, having commenced this action on May 9, 2014, pursuant to the Controlling the Assault of Non-Solicited Pornography and Marketing Act ("CAN-SPAM"), 15 U.S.C. § 7701, *et seq.*, and pursuant to the Washington Consumer Protection Act, RCW 19.86; and Defendants Steven W. Klock and U.S. Online.com, Inc., d/b/a Suddenvalues.com, having been personally served with copies of the Summons and Complaint; and

Plaintiff having appeared by and through its attorneys, Robert Ferguson, Attorney General, and John Nelson, Assistant Attorney General; and Defendants having appeared through their attorney Brian S. Sheldon, Phillabaum, Ledlin, Matthews & Sheldon, PLLC; and

Plaintiff and Defendants having agreed on a basis for the settlement of the matters alleged in the Complaint, and to the entry of this Consent Decree (hereinafter referred to as "Decree") against Defendants without the need for trial or adjudication of any issue of law or fact; and

Defendants recognize and state that this Decree is entered into voluntarily and that no promises or threats have been made by the Attorney General's Office or any member, office, agent or representative thereof to induce them to enter into this Consent Decree, except as provided herein; and

1 Defendants further agree that they will not oppose the entry of this Consent  
2 Decree on the grounds the Consent Decree fails to comply with Rule 65(d) of the  
3 Federal Rules of Civil Procedure, and hereby waive any objections based  
4 thereon; and

5 Defendants waive any right they may have to appeal from this Consent  
6 Decree; and

7 Plaintiff and Defendants having agreed that this Consent Decree does not  
8 constitute evidence or an admission regarding the existence or non-existence of  
9 any issue, fact, or violation of any law alleged by Plaintiff, but rather enter the  
10 Decree to dispense from further litigation and litigation costs; and

11 Defendants further agree that this Court shall retain jurisdiction of this action  
12 for the purpose of implementing and enforcing the terms contained herein; and

13 The Court having determined there is no just reason for delay in the entry  
14 of this Decree against Defendants, and being fully advised; and

15 The Court finding no just reason for delay;

16 NOW, THEREFORE, it is hereby ORDERED, ADJUDGED, AND  
17 DECREED as follows:

## 18 **II. JURISDICTION AND VENUE**

19 2.1 For purposes of entry of this order, the parties agree to jurisdiction  
20 over this matter pursuant to 28 U.S.C. §§ 1331, 1337(a), 1367 and  
21 15 U.S.C. § 7706. A substantial portion of the acts complained of in the action  
22 filed by Plaintiff occurred in Chelan County and elsewhere in the Eastern

1 District of Washington. Accordingly, venue in this district is appropriate  
2 pursuant to 28 U.S.C. § 1391 and 15 U.S.C. § 7706.

### 3 **III. INJUNCTIONS**

4 3.1 The injunctive provisions of the Consent Decree shall apply to all  
5 persons or entities in active concert or participation with Defendants, including  
6 but not limited to Defendants and Defendants' successors, assigns, transferees,  
7 officers, agents, servants, directors, employees, representatives, and/or affiliates.

#### 8 3.2 Definitions:

- 9 a. For purposes of this Decree, the term "commercial email  
10 message" means any electronic mail message the primary  
11 purpose of which is the commercial advertisement or  
12 promotion of a commercial product or service (including  
13 content on an Internet website operated for a commercial  
14 purpose).
- 15 b. For purposes of this Decree, the term "sender" when used with  
16 respect to a commercial electronic mail message, means a  
17 person who initiates such a message and whose product,  
18 service, or Internet web site is advertised or promoted by the  
19 message. If an entity operates through separate lines of  
20 business or divisions and holds itself out to the recipient  
21 throughout the message as that particular line of business or  
22 division rather than as the entity of which such line of business

1 or division is a part, then the line of business or the division  
2 shall be treated as the sender of such message.

3 c. For purposes of this Decree, the term “recipient” when used  
4 with respect to a commercial electronic mail message, means  
5 an authorized user of the electronic mail address to which the  
6 message was sent or delivered. If a recipient of a commercial  
7 electronic mail message has one or more electronic mail  
8 addresses in addition to the address to which the message was  
9 sent or delivered, the recipient shall be treated as a separate  
10 recipient with respect to each such address. If an electronic  
11 mail address is reassigned to a new user, the new user shall not  
12 be treated as a recipient of any commercial electronic mail  
13 message sent or delivered to that address before it was  
14 reassigned.

15 d. For the purposes of this Decree, the term “counterfeit mark”  
16 means a spurious mark that is used in connection with the  
17 marketing or sale of any goods, services, labels, patches,  
18 stickers, wrappers, badges, emblems, medallions, charms,  
19 boxes, containers, cans, cases, hangtags, documentation, or  
20 packaging of any type or nature that is identical with, or  
21 substantially indistinguishable from, a mark registered on the  
22 principal register in the United States Patent and Trademark

1 Office and in use, that is applied to or used in connection with  
2 the goods or services for which the mark is registered with the  
3 United States Patent and Trademark Office, or is applied to or  
4 consists of a label, patch, sticker, wrapper, badge, emblem,  
5 medallion, charm, box, container, can, case, hangtag,  
6 documentation, or packaging of any type or nature that is  
7 designed, marketed, or otherwise intended to be used on or in  
8 connection with the goods or services for which the mark is  
9 registered in the United States Patent and Trademark Office;  
10 and the use of which is likely to cause confusion, to cause  
11 mistake, or to deceive.

12 3.3 Defendants shall inform all persons or entities in active concert or  
13 participation with Defendants, including but not limited to Defendants and  
14 Defendants' successors, assigns, transferees, officers, agents, servants,  
15 directors, and employees, and affiliates of the terms and conditions of this  
16 Consent Decree.

17 3.4 Defendants and all persons or entities in active concert or  
18 participation with Defendants, including but not limited to Defendants and  
19 Defendants' successors, assigns, transferees, officers, agents, servants, directors,  
20 employees, independent contractors who work at the direction of Defendants,  
21 representatives, and affiliates, are restrained in the state of Washington or from a  
22

1 location outside the state of Washington where such conduct affects Washington  
2 residents, from directly or indirectly engaging in the following acts or practices:

3  
4 a. Initiating the transmission of commercial email messages  
5 more than ten (10) business days after the sender or the person who  
6 initiated the commercial electronic mail receives a request from a  
7 recipient not to receive future commercial email messages from the  
8 sender at the recipient's email address.

9 b. Initiating the transmission of commercial email messages that  
10 do not contain a functioning return email address or other Internet-  
11 based mechanism, clearly and conspicuously displayed, that (1) a  
12 recipient may use to submit, in a manner specified in the message, a  
13 reply email message or other form of Internet-based communication  
14 requesting not to receive future commercial email messages from  
15 that sender at the email address where the message was received;  
16 and (2) remains capable of receiving such messages or  
17 communications for no less than thirty (30) days after the  
18 transmission of the original message.

19 c. Failing to clearly and conspicuously disclose in the sale or  
20 marketing of a good or service that Defendants use or employ an  
21 aggregated buying service, a group sourcing purchasing model, or any  
22 other marketing or sales model whereby consumer orders are collected  
for a period of time before a purchase order is placed or secured with a  
manufacturer, wholesaler, and/or shipper.

d. Failing to clearly and conspicuously disclose all material  
terms associated with the sale or marketing of a good or service,  
including but not limited to terms related to delivery dates, refunds,  
costs, and availability of goods.

e. Failing to ship purchased goods within the time represented to  
consumers.

f. Failing to provide a full refund within seven (7) days to  
consumers for goods or services which have not been delivered  
within the time represented unless otherwise agreed upon by the  
consumer.

1 g. Misrepresenting, directly or by implication, orally or in  
2 writing, that they have the ability to ship goods by a specific date,  
3 unless there is a reasonable basis for making the representation.

4 h. Failing to respond to all communications received from  
5 customers within three business days (by either telephone or email).  
6 In responding to said communications, they must make a reasonable  
7 attempt to answer substantially all of a customer's inquiries.  
8 Automated emails do not constitute a response for purposes of the  
9 three business day requirement if the subject matter or questions  
10 contained in a communication received from a customer are not  
11 substantially addressed by the contents of the automated email reply.

12 i. Failing to ensure that agents or employees communicating  
13 with customers are sufficiently informed and authorized to assist  
14 customers.

15 j. Making any misrepresentations about delivery dates, delivery  
16 status, refunds, and the availability of goods.

17 k. Failing to pay or remit the funds received (or any portion  
18 thereof) pursuant to the sale of that good or service within a  
19 reasonable time, when selling or marketing goods or services on  
20 behalf of any party.

21 l. Failing to immediately halt the sale and marketing of any  
22 good containing a counterfeit mark when it is reasonably apparent  
that the goods may be counterfeit.

m. Failing to use reasonable diligence in determining whether a  
product marketed and sold contains a counterfeit mark.

n. Failing to provide a full refund within seven (7) days for any  
good when it is reasonably apparent that the good may be  
counterfeit.



#### IV. ATTORNEYS' COSTS AND FEES

4.1 Pursuant to RCW 19.86.080 Plaintiff shall recover and Defendants shall pay the costs and reasonable attorneys' fees incurred by the Plaintiff in pursuing this matter in the amount of \$12,500. Payment shall be made in accordance with Section IX, *infra*.

#### V. RESTITUTION

5.1 Pursuant to RCW 19.86.080, Defendants shall pay restitution in the amount of \$12,500. No later than August 1, 2015 Defendants shall email a letter to all eligible consumers as defined in paragraph 5.2 using the following subject heading and text:

##### **YOU MAY BE ENTITLED TO A REFUND**

**Dear Customer:**

**You may have purchased an item from our company between November 1, 2010 and July 31, 2015. Pursuant to an agreement between Suddenvalues.com and the Washington State Attorney General's Office, you may be eligible for a refund in the event that you purchased an item from us and you neither received the item nor were refunded the purchase price. If you believe you may be entitled to a refund, please respond to this email and provide the following information:**

**The date of your purchase;**

**The item(s) purchased;**

**The amount paid by you; and**

**The form of payment used.**

**Refunds will be issued on a pro rata basis. This means that the amount you may be entitled to will depend on the number of consumers requesting a refund and the amount each consumer paid for an item. In the event you received a refund in the form of a credit from your bank or credit card company, or a credit with SuddenValues.com, you are not eligible**

1           **for a refund. To maintain your eligibility, you must**  
2           **provide a response to this email no later than**  
3           **September 30, 2015. Merely receiving this email does**  
4           **not mean you are entitled to a refund. However, in**  
5           **receiving this email, you are being notified that you**  
6           **may be eligible, depending on the circumstances of**  
7           **your purchase. For more information, you may visit**  
8           **the web site for the Washington State Attorney**  
9           **General's Office at [www.atg.wa.gov](http://www.atg.wa.gov).**

10           5.2 Consumers to whom Defendants must send an email in accordance  
11 with Paragraph 5.1 are limited to those consumers who (1) paid for goods  
12 advertised by Defendants and neither received the good(s) or a refund (including a  
13 credit with SuddenValues.com) from Defendants, and who (2) filed a formal  
14 complaint with the Washington State Attorney General's Consumer Resource  
15 Center and/or the Better Business Bureau of Eastern Washington, North Idaho and  
16 Montana between November 1, 2010, and the date of entry of this Decree.

17           5.3 The period of time in which an eligible consumer may file a claim  
18 will open on August 1, 2015, and close on September 30, 2015. Consumers  
19 who (1) paid for goods advertised by Defendants and neither received the  
20 good(s) or a refund (including a credit with SuddenValues.com) from  
21 Defendants between November 1, 2010, and the date of entry of this Decree,  
22 but who did not file a formal complaint with either the Washington State  
Attorney General's Consumer Resource Center or the Better Business Bureau  
of Eastern Washington, North Idaho and Montana will not be contacted  
directly by Defendants, but may however contact Defendants or Plaintiff to  
file a claim within the time period noted at the beginning of this Paragraph.

1           5.4 Payment of restitution by Defendants shall be in accordance with  
2 Section IX, *infra*.

### 3                                   **VI. CIVIL PENALTIES**

4           6.1 Pursuant to RCW 19.86.140, a civil penalty of \$100,000 is imposed  
5 against Defendants. However, this civil penalty shall be suspended upon  
6 Defendants' compliance with the terms of this Decree. In the event that the Court  
7 finds that any Defendants are in material breach of any provision of this Consent  
8 Decree, the suspended civil penalties referenced shall automatically be unsuspended  
9 and assessed against Defendants in an amount deemed proper by the Court.

### 10                                  **VII. ENFORCEMENT**

11           7.1 Violation of any of the terms of this Decree, as determined by the  
12 Court, may allow Plaintiff to seek additional remedies including restitution,  
13 reasonable attorneys' fees and costs, civil penalties and injunctive relief.

14           7.2 Jurisdiction is retained for the purpose of enabling any party to this  
15 Decree with or without the prior consent of the other party to apply to the Court  
16 at any time for enforcement of compliance with this Decree, to punish violations  
17 thereof, or to modify or clarify this Consent Decree.

18           7.3 Representatives of the Office of the Attorney General of the State of  
19 Washington, shall be permitted to inspect and/or copy all relevant records or  
20 documents relating to sales and advertisements relating to an alleged violation under  
21 control of Defendants solely in order to monitor compliance with this Consent  
22 Decree upon twenty-one (21) days of written request to Defendants, provided that

1 the inspection and copying shall be done in such a way as to avoid disruption of  
2 Defendants' business activities. Representatives of the Office of Attorney General  
3 may be permitted to question Defendants, or any officer, director, agent, employees  
4 or independent contractor of any corporation affiliated with Defendants, in  
5 deposition, pursuant to the provisions and notice requirements of Fed. R. Civ. P. 30  
6 relating to an alleged violation of the Decree. This provision shall not be interpreted  
7 to mean that Defendants are required to produce third parties over whom they have  
8 no control for deposition purposes.

9 7.4 Prior to instituting enforcement action under the terms of this Decree, if  
10 the Attorney General determines that Defendants have failed to comply with any of  
11 the terms of this Decree, and if, in the Attorney General's sole discretion, the failure to  
12 comply does not threaten the health or safety of the citizens of the State and/or does  
13 not create an emergency requiring immediate action, the Attorney General will notify  
14 Defendants in writing of such failure to comply, and Defendants shall then have  
15 twenty-one (21) business days from receipt of such written notice to provide a written  
16 response to the Attorney General's determination or to cure the alleged violation.

17 7.5 Nothing in the Decree shall be construed as to limit or bar any other  
18 governmental entity or consumer from pursuing other available remedies against  
19 Defendants.

20 7.6 Under no circumstances shall this Decree or the name of the State of  
21 Washington, the Office of the Attorney General, Consumer Protection Division, or  
22 any of their employees or representatives be used by any Defendants named in the

1 Complaint in connection with any selling, advertising, or promotion of products or  
 2 services, or as an endorsement or approval of Defendants' acts, practices or conduct of  
 3 business. Notwithstanding the above, nothing herein shall preclude the Defendants  
 4 from citing or referring to this Decree or its terms or referring to the State of  
 5 Washington, the Office of the Attorney General, Consumer Protection Division, or  
 6 any of their employees or representatives in connection with their announcement of  
 7 the settlement of this action or in response to inquiries regarding the same.

### 8 **VIII. TERMS OF PAYMENT**

9 8.1 Payment of attorneys' fees and costs referenced in Section IV will  
 10 be as follows:

- 11 a. Defendants shall pay to Plaintiff twenty-five (25) individual  
 12 payments of \$500.00. Such payments are due to Plaintiff on  
 13 the first of each month. The first payment shall be payable on  
 14 February 1, 2016, and the final payment shall be payable on  
 15 February 1, 2018. Nothing in this Decree prevents  
 16 Defendants from paying this amount in full prior to  
 17 February 1, 2018.
- 18 b. Payment owing under this provision shall be in the form of a  
 19 valid check paid to the order of the "Attorney General-State of  
 20 Washington." Payment shall be sent to the Office of the  
 21 Attorney General, Attention: Cynthia Lockridge,  
 22 Administrative Office Manager, 800 Fifth Avenue, Suite  
 2000, Seattle, Washington, 98104-3188.

18 8.2 Payment of consumer restitution referenced in Section V will be as  
 19 follows:

- 20 a. Defendants shall set up an escrow account, hereinafter the  
 21 "account" to hold \$12,500 for distribution to consumers.  
 22 Defendants must establish this account within seven (7) days  
 of the entry of this Decree and provide Plaintiffs notice of the  
 account location and account number.

- 1           b.     Beginning on July 1, 2015, Defendants shall make monthly  
2                 deposits of \$500.00 to the account due the first of each month.  
3                 The first deposit shall be made on July 1, 2015, and the final  
4                 payment shall be made on January 1, 2016. Deposits of  
5                 \$500.00 will be made on July 1, 2015, August 1, 2015,  
6                 September 1, 2015, October 1, 2015, November 1, 2015, and  
7                 December 1, 2015. A final deposit in the amount of  
8                 \$9,500.00 will be deposited on January 1, 2015. Defendants  
9                 will require the escrow agent to send monthly account  
10                statements to Plaintiff by the 15<sup>th</sup> of each month. Nothing in  
11                this Decree limits Defendants' ability to pay the restitution  
12                amount in full prior to the deadlines noted above.
- 13           c.     Any notice required herein shall be sent to the Office of the  
14                 Attorney General, Attention: Cynthia Lockridge,  
15                 Administrative Office Manager, 800 Fifth Avenue, Suite  
16                 2000, Seattle, Washington, 98104-3188.
- 17           d.     Defendants shall begin issuing checks to consumers starting  
18                 January 1, 2016, and all claims shall be paid no later than  
19                 January 31, 2016. After the claims period closes and all  
20                 claims are paid by Defendants from the account, any portion  
21                 of the \$12,500 which remains unclaimed by consumers will  
22                 be payable by Defendants to Plaintiff to be used for any  
                lawful purpose. Any such payment of unused funds shall be  
                made to Plaintiff no later than February 29, 2016.
- e.     No later than February 29, 2016, or whenever all consumer  
                restitution claims have been paid, whichever is earlier,  
                Defendants shall provide Plaintiff with an accounting of all  
                consumer claims received and all consumer claims paid out.  
                This accounting shall include information sufficient to show  
                the number of checks written, the amount of each check, the  
                consumers to whom the checks were issued, and the current  
                and historical balances of the account.
- f.     Restitution will be paid on a pro rata basis and the amount  
                payable to any eligible consumer will be based upon the  
                number and dollar amount of all claims received, not to  
                exceed a total payment of \$12,500.

**IX. DISMISSAL AND WAIVER OF CLAIMS**

9.1 Upon entry of this Decree, all claims in this matter, not otherwise addressed by the Decree are dismissed and waived.

DATED June, 2015.



A handwritten signature in blue ink that reads "Thomas O. Rice".

THOMAS O. RICE  
United States District Judge

Presented by:

Approved for Entry, Notice of Presentation  
Waived:

ROBERT W. FERGUSON  
Attorney General

Phillabaum, Ledlin, Matthews & Sheldon,  
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Approved by:

/s/Steven W. Klock  
STEVEN W. KLOCK, individually and as  
President and CEO of U.S.Online.com, Inc.,  
d/b/a Suddenvalues.com